

Patent  
10/714,070

### REMARKS

Claims 1-3 and 5-13 are now pending in the application. Claims 1 and 7-9 are independent and each has been amended herein. Dependent Claims 10-13 were previously added in the Amendment filed on October 26, 2005.

Applicants respectfully submit that that the January 9, 2006 final Action failed to address previously presented Claims 10-13, depending from independent Claims 1, 7, 8 and 9, respectively. The limitations presented therein have now been recited in amended independent Claims 1, 7, 8 and 9, and Claims 10-13 therefore canceled. It is respectfully submitted that these claim amendments must be considered as claims including corresponding coverage were not addressed in the final Office Action.

Claims 1-4 and 7 were finally rejected under 35 USC 102(e) as being anticipated by US Patent 6,416,533 (Gobin et al.); Claim 5 was rejected under 35 USC 103(a) as being unpatentable over Gobin; Claim 6 was rejected as being unpatentable over Gobin in view of US Patent 5,139,496 (Hed); and Claims 8-9 were rejected as being unpatentable over Gobin. Each of the rejections is respectfully traversed and reconsideration is requested.

Each of the independent claims, Claims 1, 7, 8 and 9, has been amended to recite a system or method for changing the temperature of a patient, in which a single outlet lumen and an inlet lumen of a catheter are configured such that blood flows between the outlet lumen and the inlet lumen (see, at least, Figs. 2 and 3 of Applicant's specification as filed).

Gobin and Hed fail to teach or suggest a catheter that includes an inlet lumen to introduce a circulating working fluid and a single outlet lumen to extract a circulating working fluid, the outlet lumen having a shape that *induces mixing* in blood flowing past the outlet lumen or in the working fluid, wherein the outlet lumen and the inlet lumen are configured *such that blood flows between the outlet lumen and the inlet lumen.*

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In view of the above claim amendments and discussion, the outstanding 102(e) and 103(a) rejections are believed to be moot and reconsideration is requested.

Since the Applicant has fully responded to the Office Action, it is respectfully submitted that in regard to the above remarks that the pending application is patentable over the art of record and prompt review and issuance is accordingly requested. Should the Examiner be of the view that an interview would expedite consideration of this Amendment After Final Rejection or of the application at large, request is made that the Examiner telephone the Applicant's undersigned attorney at (908) 518-7700 in order that any outstanding issues be resolved.

Respectfully submitted,

  
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